IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4528 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NARENDRA @ NARPATSINH BHIKHUSING PUROHIT

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR SJ DAVE,AGP for Respondent-State.

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 28/06/2000

ORAL JUDGEMENT

The petitioner has been detained under the provisions of Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as " the Act of 1985") by the order dated 8-2-2000 passed by the Police Commissioner, Ahmedabad City, and he has been declared as bootlegger.

2. It is now well settled that unless the activities of a person as bootlegger has disturbed the maintenance of public order, he cannot be detained under the Act. Reliance is placed on a decision of the case of Piyush Kantilal Mehta vs. Commissioner of Police, Ahmedabad & Ors. reported in AIR 1989 SC 491.

3. I have heard learned advocate for the petitioner and also perused the material on record. According to learned advocate for the petitioner, the detenu has submitted a representation to the State authority on 15-4-2000 by which the petitioner demanded certain documents from the authority, but the authority has not provided the same to the petitioner for a period of one month though the same were having with them from January, 2000 onwards. Though the representation has been received by the authority, the concerned authority has not taken any care even in taking the decision as expeditiously as possible and to communicate to detenu and ultimately, after a lapse of one month, on 17-5-2000 he has sent the documents admittedly after filing the present petition. Learned A.P.P. for the State, Mr. S.J.Dave has fairly admitted the same. It appears that there is a delay in supplying the documents to the detenu.

4. It has been held in a judgment reported in 1982 S.C. 696 in the case of Mohd. Zakir vs. Delhi Administration and others at head note as under :

> "Detention-Documents relied on by authorities not supplied with grounds of detention-Detention is illegal."

It has been further held by the Apex Court as under :

> "It is manifest that the question of demanding the documents is wholly irrelevant because it is the constitutional mandate which requires the detaining authority to give the documents relied on or referred to in the order of detention pari passu the grounds of detention in order that the detenu may make an effective representation immediately instead of waiting for the documents to be supplied with."

5. Here in this case, though it is the duty of the authority to supply copies of the documents along with the detention order, authority has failed to supply the same. Even the detenu has requested by way of representation to supply the same, the authority has not taken care even in taking the decision as expeditiously as possible and to communicate to detenu and ultimately, after a lapse of one month, on 17-5-2000 he has sent the documents admittedly after filing the present petition. Since the petitioner succeeds from only point, learned advocate for the petitioner does not press all the other contentions.

6. Hence, in view of the facts and circumstances and also in view of the judgment reported in 1982 S.C. 696 (Supra) the order of detention is illegal.

7. In view of the above, the petition is allowed. The impugned order of detention dated 8-2-2000 passed against the detenu is hereby quashed and set aside. The detenu- Narendra @ Narpatsinh Bhikhusing Purohit is ordered to be set at liberty forthwith forthwith, it he is not required to be detained in any other case. Rule is made absolute with no order as to costs.

28-6-2000 (R.P.Dholakia, J.)

*mithabhai